

JOSEPH P. RUSSONIELLO (CABN 44332)  
United States Attorney

BRIAN J. STRETCH (CABN 163973)  
Chief, Criminal Division

NATHANAEL M. COUSINS (CABN 177944)  
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102  
Telephone: (415) 436-7368  
Facsimile: (415) 436-7234  
E-Mail: [nat.cousins@usdoj.gov](mailto:nat.cousins@usdoj.gov)

Attorneys for the United States of America

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GIOVANNI WARREN, )  
 )  
Defendant. )

No. CR 09-0558 MHP

**[PROPOSED] ORDER OF  
DETENTION OF DEFENDANT  
GIOVANNI WARREN**

The defendant GIOVANNI WARREN came before this Court on June 10 and June 17, 2009 for a detention hearing to determine the release or detention of the defendant pending trial under 18 U.S.C. § 3142. The defendant was present and represented by Geoffrey Hansen, Chief Assistant Federal Public Defender. Assistant United States Attorneys Cynthia Frey (on June 10) and Nat Cousins (on June 17) represented the United States.

The government requested detention, submitting that no condition or combination of conditions would reasonably assure the appearance of the defendant as required and the safety of the community. The government further asserted that this is a

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1 “presumption” case under 18 U.S.C. § 3142(e), in that the charged offense carries a  
2 maximum penalty exceeding ten years under the Controlled Substances Act. Therefore,  
3 “subject to rebuttal by the defendant, it shall be presumed that no condition or  
4 combination of conditions will reasonably assure the appearance of the person as required  
5 and the safety of the community . . .”

6 Pretrial Services submitted a report recommending detention based on both risk of  
7 flight and safety of the community.

8 Upon consideration of the Pretrial Services report, the court file, and the party  
9 proffers as discussed below, the Court finds by a preponderance of evidence that no  
10 condition or combination of conditions of release could reasonably assure the appearance  
11 of the defendant as required. The Court also finds by clear and convincing evidence that  
12 no condition or combination of conditions will reasonably assure the safety of any other  
13 person and the community. The Court orders the defendant detained pending trial.

14 The present order supplements the Court’s findings at the detention hearing and  
15 serves as a written findings of fact and statement of reasons as required by 18 U.S.C. §  
16 3142(I).

17 The Bail Reform Act of 1984, 18 U.S.C. §§ 3141-50, sets forth the factors which  
18 the Court must consider in determining whether pretrial detention is warranted. In  
19 coming to its decision, the Court has considered those factors, paraphrased below:

- 20 (1) the nature and seriousness of the offense charged;  
21 (2) the weight of the evidence against the person;  
22 (3) the history and characteristics of the person including, among other  
23 considerations, employment, past conduct and criminal history, and records of  
24 court appearances; and  
25 (4) the nature and seriousness of the danger to any person or the community that  
26 would be posed by the person’s release.

27 18 U.S.C. § 3142(g).

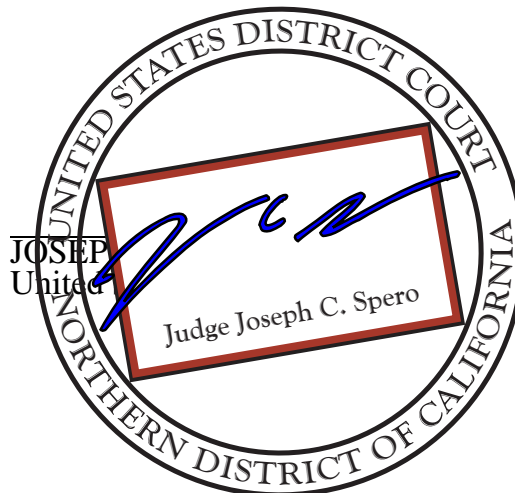
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In considering all of the facts and proffers presented at the hearing, the Court finds the following factors among the most compelling in reaching its conclusion that no combination of conditions could reasonably assure the defendant's future appearances and the community's safety. First, as noted in the pretrial services report, there are records of 7 separate failures to appear in prior proceedings by this defendant. Second, there are no sureties willing to support the defendant's bail request, despite the fact that the defendant has several family members living in the Bay Area. Third, the defendant has 3 felony convictions and 4 probation violations in his criminal record. These factors, among others adduced at the hearing, clearly and convincingly demonstrate that if released the defendant would be a danger to the community and unlikely to appear as required.

Accordingly, pursuant to 18 U.S.C. § 3142(I), IT IS ORDERED THAT:

- (1) the defendant is committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
- (2) the defendant be afforded reasonable opportunity for private consultation with his counsel; and
- (3) on order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined shall deliver the defendant to an authorized Deputy United States Marshal for the purpose of any appearance in connection with a court proceeding.

Dated: June 24, 2009



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